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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

KRISHNAMURTHY, RAMESH

ART UNIT PAPER NUMBER

3753

DATE MAILED: 03/23/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/088,507

Applicant(s)

FRANCOIS, PHILIPPE

Examiner

Ramesh Krishnamurthy

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 06 January 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 12 - 22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 12 - 16 and 19 - 22 is/are rejected.
- 7) ☒ Claim(s) 17 and 18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

This office action is responsive to amendment filed 01/06/2004.

**Claims 12 – 22 are pending.**

1. The replacement drawing sheet for Fig. 1 was received on 01/06/2004. The amendment(s) therein are approved.
2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 12 – 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Trask (US 2,161,769).

Trask discloses (Figs. 1 – 3) a delivery valve for a compressor comprising:

A valve plate (9) pierced with at least one fluid delivery passage (11);

At least one delivery valve (16) closing said at least one fluid delivery passage (11) on a downstream side in a direction of the delivery of said fluid, and secured at one of its ends to the valve plate (9) by first fixing means (12); and

At least one delivery valve stop (13);

Wherein said at least one delivery valve (16) is clamped at its other end, in almost permanent sliding contact with the valve plate (9) by a spring (18) secured to the valve plate (9) by second fixing means (12) (page 2, left column, lines 21 – 40).

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 15 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Trask as applied to claims 12 – 14 above, and further in view of Peruzzi et al. (US 5,110,272).

Task discloses the claimed invention with the exception of disclosing the fixing means to include rivets.

Peruzzi et al. discloses a compressor valve wherein (see Fig. 3) rivets (94) are used as fixing means.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have substituted the bolts in the fixing means of Trask with the rivets disclosed in Peruzzi et al. as they are art-recognized equivalents and serve equally well in securing the valve parts to the valve plate.

Regarding claim 22, it is noted that Peruzzi et al. discloses (Fig. 3) the valve element (60) to have a reduced width in a region of lesser stress thereby promoting the efficiency of the compressor by reducing the overall weight of the valve.

6. Claims 16, 19, 20 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Trask as applied to claim 12 - 14 above, and further in view of Augustin (US 2,908,287).

The patent to Trask discloses the claimed invention with the exception of disclosing pegs to prevent the valve and the spring from rotating.

Augustin discloses a compressor valve wherein a peg (60) is disposed in a non-circular aperture (61) for the purpose of preventing lateral pivoting i.e. rotation of the valve.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have provided the valve arrangement in Trask with pegs for the purpose of preventing rotation as recognized by Augustin.

Regarding claim 21, it is noted that the use of a star shaped orifice as opposed to the non-circular slot in Augustin pertains to a mere change in shape of the orifice and the courts have generally held a change in the shape of a prior art device to be a design consideration involving only routine skill in the art. In re Dailey, 357 F. 2d 669, 149 USPQ 47 (CCPA 1966).

7. Claims 17 and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

***Response to Arguments***

9. Applicant's arguments filed 01/06/2004 have been fully considered but they are not persuasive. Applicant is arguing that the amended claim 12 recites a delivery valve that is "clamped at its other end" and the TRASK reference applied in the rejection does not disclose that claimed limitation. However it is the position of the examiner that in the instant invention "clamping" of the delivery valve at its other end can only be taken in the sense that the spring supports the valve at "the other end", since there is no clamping means that is disclosed to be disposed between the other end of the delivery valve and the spring. In light of this reading of the limitation - "clamped at its other end", the TRASK reference does anticipate claim 12 as set forth in this office action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ramesh Krishnamurthy whose telephone number is (703) 305 - 5295. The examiner can normally be reached on Monday - Friday from 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A. Scherbel, can be reached on (703) 308 - 1272. The fax phone number for the organization where this application or proceeding is assigned is (703) 872 - 9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308 - 0861.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Ramesh Krishnamurthy  
Examiner  
Art Unit 3753